

FILED

MAR 16 2006

**Board of Vocational Nursing
and Psychiatric Technicians**

EDMUND G. BROWN JR., Attorney General
of the State of California
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**BEFORE THE
DEPARTMENT OF CONSUMER AFFAIRS
FOR THE BOARD OF VOCATIONAL NURSING AND
PSYCHIATRIC TECHNICIANS
STATE OF CALIFORNIA**

In the Matter of the Petition to Revoke Probation Against:

Case No. 6836

FRANCISCO MACIEL
P.O. Box 1554
Porterville, California 93258

**PETITION TO REVOKE
PROBATION**

Vocational Nurse License No. VN 181911

Respondent.

Teresa Bello-Jones, J.D., M.S.N., R.N. ("Complainant") alleges:

PARTIES

1. Complainant brings this Petition to Revoke Probation solely in her official capacity as the Executive Officer of the Board of Vocational Nursing and Psychiatric Technicians ("Board"), Department of Consumer Affairs.

Vocational Nurse License

2. On or about August 28, 1997, the Board issued Vocational Nurse License Number VN 181911 to Francisco Maciel ("Respondent"). The vocational nurse license expired on January 31, 2009, and has not been renewed.

Prior Discipline

3. Effective June 15, 2006, pursuant to the Decision and Stipulated Settlement and Disciplinary Order in Accusation No. 6836, the Board of Vocational Nursing and

1 Psychiatric Technicians revoked Respondent's Vocational Nurse License No. VN 181911;
2 however, the revocation was stayed and Respondent's license was placed on probation for a
3 period of three (3) years with certain terms and conditions. A copy of the Decision and
4 Stipulated Settlement and Disciplinary Order is attached as **Exhibit A** and is incorporated herein
5 by reference.

6 STATUTORY PROVISIONS

7 4. Section 2875 of the Business and Professions Code ("Code") provides, in
8 pertinent part, that the Board may discipline the holder of a vocational nurse license for any
9 reason provided in Article 3 (commencing with Code section 2875) of the Vocational Nursing
10 Practice Act.

11 5. Code section 118, subdivision (b), provides, in pertinent part, that the
12 expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary
13 action during the period within which the license may be renewed, restored, reissued or
14 reinstated. Under Code section 2892.1, the Board may renew an expired license at any time
15 within four years after the expiration.

16 6. Grounds exist for revoking the probation and reimposing the order of
17 revocation of Respondent's Vocational Nurse License No. VN 181911. Condition 12 of the
18 Stipulated Settlement and Disciplinary Order states, in pertinent part:

19 If Respondent violates that conditions of his probation, the Board after
20 giving the Respondent notice and an opportunity to be heard, may set aside the
21 stay order and impose the stayed discipline (revocation) of the Respondent's
22 license. If during the period of probation, an accusation or petition to revoke
23 probation has been filed against the Respondent's license or the Attorney
General's Office has been requested to prepare an accusation or petition to revoke
24 probation against Respondent's license, the probationary period shall
25 automatically be extended and shall not expire until the accusation or petition has
26 been acted upon by the Board.

27 7. Respondent has violated the Probation Program, as more particularly set
28 forth in the following paragraphs:

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1 **FIRST CAUSE TO REVOKE PROBATION**

2 **(Failure to Comply with the Probation Program and Quarterly Report Requirements)**

3 8. At all times after the effective date of Respondent's probation, Condition 2
4 states:

5 Respondent shall fully comply with the terms and conditions of the
6 probation established by the Board and shall cooperate with representatives of the
7 Board in its monitoring and investigation of the Respondent's compliance with
8 the Probation Program.

9 Respondent shall submit quarterly reports, under penalty of perjury, in a
10 form required by the Board. The reports shall certify and document compliance
11 with all the conditions of probation.

12 9. Respondent's probation is subject to revocation because he failed to
13 comply with Probation Condition 2, referenced above. The facts and circumstances regarding
14 this violation are as follows:

15 a. Respondent failed to submit quarterly reports for April-June 2006;
16 July-September 2006; October-December 2006; January-March 2007; April-June 2007;
17 July-September 2007; October-December 2007; January-March 2008; April-June 2008;
18 July-September 2008; and, October-December 2008.

19 b. Respondent failed to comply with the terms of probation, as more
20 particularly set forth in this paragraph and in paragraphs 11, 13, 15, and 17, below.

21 **SECOND CAUSE TO REVOKE PROBATION**

22 **(Failure to Notify Board of Address/Telephone Changes)**

23 10. At all times after the effective date of Respondent's probation, Condition 3
24 states:

25 Respondent shall notify the Board, in writing, within five (5) days of a
26 change of residence or mailing address, of his new address and any change in his
27 work and/or home telephone numbers.

28 11. Respondent's probation is subject to revocation because he failed to
comply with Probation Condition 3, referenced above. The facts and circumstances regarding
this violation are that Respondent failed to notify the Board of his new address, which appears to
be 17203 Coyote Drive, Springville, California 93265-9374.

1 **THIRD CAUSE TO REVOKE PROBATION**

2 **(Failure to Fulfill Work Requirements Pursuant to the Terms of Probation)**

3 12. At all times after the effective date of Respondent's probation, Condition 7
4 states:

5 During probation, Respondent shall work in his licensed capacity in the
6 State of California. This practice shall consist of no less than six (6) continuous
months and of no less than twenty (20) hours per week.

7 While on probation, Respondent shall not work for a nurses' registry or in
8 any private duty position, a temporary nurse placement agency, as a faculty
9 member in an accredited or approved school of nursing, or an instructor in a
10 Board approved continuing education course except as approved, in writing, by
the Board. Respondent shall work only on a regularly assigned, identified and
predetermined work site(s) and shall not work in a float capacity except as
approved, in writing, by the Board.

11 13. Respondent's probation is subject to revocation because he failed to
12 comply with Probation Condition 7, referenced above. The facts and circumstances regarding
13 this violation are that Respondent failed to demonstrate that he has functioned in his licensed
14 capacity of a licensed vocational nurse for a minimum of six (6) continuous months at no less
15 than twenty (20) hours per week.

16 **FOURTH CAUSE TO REVOKE PROBATION**

17 **(Failure to Complete Education Courses)**

18 14. At all times after the effective date of Respondent's probation, Condition 9
19 states, in pertinent part:

20 Respondent, at his own expense, shall enroll and successfully complete a
21 course(s) substantially related to the violation(s) no later than the end of the first
year of probation; or Respondent shall be suspended from practice, until he has
22 enrolled in and has successfully completed the specified coursework.

23 The coursework shall be in addition to that required for license renewal.
The Board shall notify Respondent of the course content and number of contact
24 hours required. Within thirty (30) days of the Board's written notification of
assigned coursework, Respondent shall submit a written plan to comply with this
25 requirement. The Board shall approve such plan prior to enrollment in any course
of study.

26 15. Respondent's probation is subject to revocation because he failed to
27 comply with Probation Condition 9, referenced above. The facts and circumstances regarding

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1 this violation are that Respondent failed to complete the remedial education assignment within
2 the first year of probation as required.

3 **FIFTH CAUSE TO REVOKE PROBATION**

4 **(Failure to Pay Cost Recovery)**

5 16. At all times after the effective date of Respondent's probation, Condition
6 11 states, in pertinent part:

7 Respondent shall pay to the Board pursuant to Business and Professions
8 Code section 125.3, the costs of investigation and enforcement in this matter in
9 the amount of \$2,750. Respondent shall be permitted to pay these costs in a
10 payment plan approved by the Board, with the payments to be completed no later
11 than three months prior to the end of the probation term. Failure to complete
12 payment of cost recovery within this time frame shall constitute a violation of
13 probation which may subject Respondent's license to outright revocation.

14 17. Respondent's probation is subject to revocation because he failed to
15 comply with Probation Condition 11, referenced above. The facts and circumstances regarding
16 this violation are that during his initial probation compliance meeting of June 20, 2006,
17 Respondent entered into an agreement with the Board whereby Respondent agreed to make
18 thirty-one (31) payments in the amount of \$85.94 and one (1) payment in the amount of \$85.86;
19 however, Respondent only made one payment on September 1, 2006. Respondent failed to make
20 any further payments, leaving a balance owing of \$2,650.

21 **PRAYER**

22 **WHEREFORE**, Complainant requests that a hearing be held on the matters
23 herein alleged, and that following the hearing, the Board of Vocational Nursing and Psychiatric
24 Technicians issue a decision:

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1 1. Revoking the probation that was granted by the Board of Vocational
2 Nursing and Psychiatric Technicians in Case No. 6836 and imposing the disciplinary order that
3 was stayed thereby revoking Vocational Nurse License No. VN 181911, issued to Francisco
4 Maciel; and,

5 2. Taking such other and further action as deemed necessary and proper.

6 DATED: March 16, 2009.

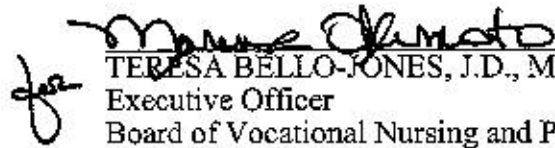
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9 for  TERESA BELLO-JONES, J.D., M.S.N., R.N.
10 Executive Officer
11 Board of Vocational Nursing and Psychiatric Technicians
12 Department of Consumer Affairs
13 State of California
14 Complainant

Exhibit A

Decision and Order

Board of Vocational Nursing and Psychiatric Technicians Case No. 6836

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BEFORE THE
BOARD OF VOCATIONAL NURSING
AND PSYCHIATRIC TECHNICIANS
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

Case No. 6836

FRANCISCO MACIEL

5747 Avenue 397

Dinuba, CA 93618

Vocational Nurse License No. VN 181911

Respondent.

DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Vocational Nursing and Psychiatric Technicians, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on June 15, 2006.

IT IS SO ORDERED this 16TH day of May, 2006.

Sister Marie de Porres Taylor
Sister Marie de Porres Taylor
President

ORIGINAL

BILL LOCKYER, Attorney General
of the State of California
GEOFFREY S. ALLEN, State Bar No. 193338
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Attorneys for Complainant

BEFORE THE
BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

FRANCISCO MACIEL
5747 Avenue 397
Dinuba, California 93618

Vocational Nurse License No. VN 181911

Respondent.

Case No. 6836

OAH No. 2005 110776

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

IT IS HEREBY STIPULATED AND AGREED by and between the parties to the
above-entitled proceedings that the following matters are true:

PARTIES

1. Teresa Bello-Jones, J.D., M.S.N., R.N. (hereinafter "Complainant") is the
Executive Officer of the Board of Vocational Nursing and Psychiatric Technicians. She brought
this action solely in her official capacity and is represented in this matter by Bill Lockyer,
Attorney General of the State of California, by Geoffrey S. Allen, Deputy Attorney General.

2. Respondent FRANCISCO MACIEL (hereinafter "Respondent") is
represented in this proceeding by attorney Donald B. Brown, whose address is: Law Offices of
Brown and Brown, 3848 Carson Street, Suite 206, Torrance, California 90503.

3. On or about August 28, 1997, the Board of Vocational Nursing and
Psychiatric Technicians (hereinafter "Board") issued Vocational Nurse License No. VN 181911

1 (hereinafter "License") to Respondent. The License was in full force and effect at all times
2 relevant to the charges brought in Accusation No. 6836 and will expire on January 31, 2007,
3 unless renewed.

4 JURISDICTION

5 4. Accusation No. 6836 (hereinafter "Accusation") was filed before the
6 Board of Vocational Nursing and Psychiatric Technicians, Department of Consumer Affairs, and
7 is currently pending against Respondent. The Accusation and all other statutorily required
8 documents were properly served on Respondent on October 28, 2005. Respondent timely filed
9 his Notice of Defense contesting the Accusation. A copy of the Accusation is attached as exhibit
10 A and incorporated herein by reference.

11 ADVISEMENT AND WAIVERS

12 5. Respondent has carefully read, fully discussed with counsel, and
13 understands the charges and allegations in the Accusation. Respondent has also carefully read,
14 fully discussed with his legal counsel, and understands the effects of this Stipulated Settlement
15 and Disciplinary Order.

16 6. Respondent is fully aware of his legal rights in this matter, including the
17 right to a hearing on the charges and allegations in the Accusation; the right to be represented by
18 counsel at his own expense; the right to confront and cross-examine the witnesses against him;
19 the right to present evidence and to testify on his own behalf; the right to the issuance of
20 subpoenas to compel the attendance of witnesses and the production of documents; the right to
21 reconsideration and court review of an adverse decision; and all other rights accorded by the
22 California Administrative Procedure Act and other applicable laws.

23 7. Respondent voluntarily, knowingly, and intelligently waives and gives up
24 each and every right set forth above.

25 CULPABILITY

26 8. Respondent admits the truth of each and every charge and allegation in the
27 Accusation.

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1 9. Respondent agrees that his Vocational Nurse License is subject to
2 discipline and he agrees to be bound by the Board's imposition of discipline as set forth in the
3 Disciplinary Order below.

4 CONTINGENCY

5 10. This stipulation shall be subject to approval by the Board of Vocational
6 Nursing and Psychiatric Technicians. Respondent understands and agrees that counsel for
7 Complainant and the staff of the Board of Vocational Nursing and Psychiatric Technicians may
8 communicate directly with the Board regarding this stipulation and settlement, without notice to
9 or participation by Respondent or his counsel. By signing the stipulation, Respondent
10 understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation
11 prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation
12 as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force
13 or effect, except for this paragraph, it shall be inadmissible in any legal action between the
14 parties, and the Board shall not be disqualified from further action by having considered this
15 matter.

16 11. The parties understand and agree that facsimile copies of this Stipulated
17 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same
18 force and effect as the originals.

19 12. In consideration of the foregoing admissions and stipulations, the parties
20 agree that the Board may, without further notice or formal proceeding, issue and enter the
21 following Disciplinary Order:

22 DISCIPLINARY ORDER

23 IT IS HEREBY ORDERED that Vocational Nurse License No. VN 181911 issued
24 to Respondent FRANCISCO MACIEL (Respondent) is revoked. However, the revocation is
25 stayed and Respondent is placed on probation for three (3) years on the following terms and
26 conditions.

27 1. **Obey All Laws.** Respondent shall obey all federal, state and local laws,
28 including all statutes and regulations governing the License. Respondent shall submit, in writing,

1 a full and detailed account of any and all violations of the law to the Board within five (5) days of
2 occurrence. To ensure compliance with this term, respondent shall submit two (2) completed
3 fingerprint cards and the applicable fingerprint processing fees to the Board within thirty (30)
4 days of the effective date of the decision, unless the Board determines that fingerprint cards were
5 already submitted by Respondent as part of his licensure application process effective July 1,
6 1996. Respondent shall also submit a recent 2" x 2" photograph of himself within thirty (30)
7 days of the effective date of the decision.

8 **2. Compliance With Probation Program And Quarterly Report**

9 **Requirements.** Respondent shall fully comply with terms and conditions of the probation
10 established by the Board and shall cooperate with the representatives of the Board in its
11 monitoring and investigation of the Respondent's compliance with the Probation Program.

12 Respondent shall submit quarterly reports, under penalty of perjury, in a form
13 required by the Board. The reports shall certify and document compliance with all the conditions
14 of probation.

15 **3. Notification of Address And Telephone Number Change(s).**

16 Respondent shall notify the Board, in writing, within five (5) days of a change of residence or
17 mailing address, of his new address and any change in his work and/or home telephone numbers.

18 **4. Notification of Residency or Practice Outside of State.**

19 Respondent shall notify the Board, in writing, within five (5) days, if he leaves California to reside or practice
20 in another state.

21 Respondent shall notify the Board, in writing, within five (5) days, upon his return
22 to California.

23 The period of probation shall not run during the time Respondent is residing or
24 practicing outside California.

25 **5. Notification to Employer(s).**

26 When currently employed or applying for
27 employment in any capacity in any health care profession, Respondent shall notify his employer
28 of the probationary status of Respondent's license. This notification to the Respondent's current
health care employer shall occur no later than the effective date of the Decision. Respondent

1 shall notify any prospective health care employer of his probationary status with the Board prior
2 to accepting such employment. This notification shall be by providing the employer or
3 prospective employer with a copy of the Board's Accusation and Disciplinary Decision.

4 The Health Care Profession includes, but is not limited to: Licensed Vocational
5 Nurse, Psychiatric Technician, Registered Nurse, Medical Assistant, Paramedic, Emergency
6 Medical Technician, Certified Nursing Assistant, Home Health Aide, and all other ancillary
7 technical health care positions.

8 Respondent shall cause each health care employer to submit quarterly reports to
9 the Board. The reports shall be on a form provided by the Board, shall include a performance
10 evaluation and such other information as may be required by the Board.

11 Respondent shall notify the Board, in writing, within five (5) days of any change
12 in employment status. Respondent shall notify the Board, in writing, if he is terminated from any
13 nursing or health care related employment with a full explanation of the circumstances
14 surrounding the termination.

15 **6. Interviews/meetings With Board Representative(s).** Respondent,
16 during the period of probation, shall appear in person at interviews/meetings as directed by the
17 Board, or its designated representatives.

18 **7. Employment Requirements And Limitations.** During probation,
19 Respondent shall work in his licensed capacity in the State of California. This practice shall
20 consist of no less than six (6) continuous months and of no less than twenty (20) hours per week.

21 While on probation, Respondent shall not work for a nurses' registry or in any
22 private duty position, a temporary nurse placement agency, as a faculty member in an accredited
23 or approved school of nursing, or as an instructor in a Board approved continuing education
24 course except as approved, in writing, by the Board. Respondent shall work only on a regularly
25 assigned, identified and predetermined work site(s) and shall not work in a float capacity except
26 as approved, in writing, by the Board.

27 **8. Supervision Requirements.** Respondent shall obtain prior approval from
28 the Board, before commencing any employment, regarding the level of supervision provided to

Respondent while employed as a licensed vocational nurse or psychiatric technician.

Respondent shall not function as a charge nurse (i.e., work in any healthcare setting as the person who oversees or directs licensed vocational nurses, psychiatric technicians, certified nursing assistants or unlicensed assistive personnel) or supervising psychiatric technician during the period of probation except as approved, in writing, by the Board.

9. **Completion of Educational Course(s).** Respondent, at his own expense, shall enroll and successfully complete a course(s) substantially related to the violation(s) no later than the end of the first year of probation; or Respondent shall be suspended from practice, until he has enrolled in and has successfully completed the specified coursework.

The coursework shall be in addition to that required for license renewal. The Board shall notify Respondent of the course content and number of contact hours required. Within thirty (30) days of the Board's written notification of assigned coursework, Respondent shall submit a written plan to comply with this requirement. The Board shall approve such plan prior to enrollment in any course of study.

Upon successful completion of the course, Respondent shall cause the instructor to furnish proof to the Board within thirty (30) days of course completion.

10. **Maintenance of Valid License.** Respondent shall, at all times while on probation, maintain an active current license with the Board, including any period during which suspension or probation is tolled.

Should respondent's license, by operation of law or otherwise, expire, upon renewal or reinstatement respondent's license shall be subject to any and all terms of this probation not previously satisfied.

11. **Cost Recovery Requirements.** Respondent shall pay to the Board pursuant to Business and Professions Code Section 125.3 the costs of investigation and enforcement in this matter in the amount of \$2,750.00. Respondent shall be permitted to pay these costs in a payment plan approved by the Board, with the payments to be completed no later than three months prior to the end of the probation term. Failure to complete payment of cost recovery within this time frame shall constitute a violation of probation which may subject

1 Respondent's license to outright revocation.

2 The Board may conditionally renew or reinstate, for a maximum of one year, the
3 license of any respondent who demonstrates financial hardship. Respondent shall enter into a
4 formal agreement with the Board to reimburse the unpaid costs within that one year period.

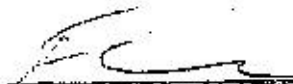
5 Except as provided above, the Board shall not renew or reinstate the license of any
6 Respondent who has failed to pay all the costs as directed in a Decision.

7 12. Violation of Probation. If Respondent violates the conditions of his
8 probation, the Board after giving Respondent notice and an opportunity to be heard, may set
9 aside the stay order and impose the stayed discipline (revocation) of the Respondent's license. If
10 during the period of probation, an accusation or petition to revoke has been filed against the
11 Respondent's license or the Attorney General's Office has been requested to prepare an
12 accusation or petition to revoke probation against the Respondent's license, the probationary
13 period shall automatically be extended and shall not expire until the accusation or petition has
14 been acted upon by the Board. Upon successful completion of probation, the Respondent's
15 license will be fully restored.

16 ACCEPTANCE

17 I have carefully read the above Stipulated Settlement and Disciplinary Order and
18 have fully discussed it with my attorney, Donald B. Brown. I understand the stipulation and the
19 effect it will have on my Vocational Nurse License. I enter into this Stipulated Settlement and
20 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
21 Decision and Order of the Board of Vocational Nursing and Psychiatric Technicians.

22 DATED: MAR - 7 2006

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24 
25 FRANCISCO MACHIEL
Respondent


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1 I have read and fully discussed with Respondent FRANCISCO MACIEL the
2 terms and conditions and other matters contained in the above Stipulated Settlement and
3 Disciplinary Order. I approve its form and content.

4 DATED: MAR - 7 2006

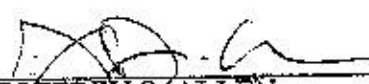
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6 
DONALD E. BROWN
Attorney for Respondent

7
8 ENDORSEMENT

9 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
10 submitted for consideration by the Board of Vocational Nursing and Psychiatric Technicians of
11 the Department of Consumer Affairs.

12 DATED: 3/7/06

13 BILL LOCKYER, Attorney General
14 of the State of California

15 
16 GEOFFREY S. ALLEN
Deputy Attorney General
Attorneys for Complainant

17 DOJ Matter ID: SA2005102432
18 10225932.wpd
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Exhibit A
Accusation No. 6836

ORIGINAL

BILL LOCKYER, Attorney General
of the State of California
GEOFFREY ALLEN, State Bar No. 193338
Deputy Attorney General
California Department of Justice
1300 J Street, Suite 125
P.O. Box 944255
Sacramento, CA 94244-2550
Telephone: (916) 324-5339
Facsimile: (916) 327-8643

Attorneys for Complainant

**BEFORE THE
BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. 6836

FRANCISCO MACIEL
5747 Avenue 397
Dinuba, California 93618

ACCUSATION

Vocational Nurse License No. VN 181911

Respondent.

Teresa Bello-Jones, J.D., M.S.N., R.N., Executive Officer ("Complainant")

alleges:

PARTIES

1. Complainant brings this Accusation solely in her official capacity as the Executive Officer of the Board of Vocational Nursing and Psychiatric Technicians, Department of Consumer Affairs.

License History

2. On or about August 28, 1997, the Board of Vocational Nursing and Psychiatric Technicians issued Vocational Nurse License Number VN 181911 to FRANCISCO MACIEL ("Respondent"). The license was in full force and effect at all times relevant to the charges brought herein and will expire on January 31, 2007, unless renewed.

STATUTORY PROVISIONS

3. Section 2875 of the Business and Professions Code ("Code") provides, in pertinent part, that the Board may discipline the holder of a vocational nurse license for any reason provided in Article 3 (commencing with Code section 2875) of the Vocational Nursing Practice Act.

4. Code section 118, subdivision (b), provides, in pertinent part, that the expiration of a license shall not deprive the Board jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated. Under section 2892.1 of the Code, the Board may renew an expired license at any time within four years after the expiration.

5. Code section 2878 states, in pertinent part:

The Board may suspend or revoke a license issued under this chapter [the Vocational Nursing Practice Act (Bus. & Prof. Code, § 2840, et seq.)] for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, the following:

(f) Conviction of a crime substantially related to the qualifications, functions, and duties of a licensed vocational nurse, in which event the record of the conviction shall be conclusive evidence of the conviction.

FIRST CAUSE FOR DISCIPLINE

(Conviction of a Crime)

6. Respondent is subject to disciplinary action under Code section 2878, subdivision (f), in that on or about October 7, 2004, in the case entitled, *People v. Francisco Maciel* (Super. Ct., Kings County, 2004, Case No. 04CM7534), Respondent was convicted by the court on his plea of nolo contendere, pursuant to a plea agreement, to violating Count Four, Penal Code section 236 (False Imprisonment), a misdemeanor. Such conduct is substantially related to the qualifications, duties and functions of a licensed vocational nurse. The circumstances of the crime are that Respondent was arrested at his place of employment on or about August 12, 2004, for violating Penal Code sections 243.4 (Sexual Battery) and 314

1 (Indecent Exposure), both misdemeanors. A complaint was filed on August 24, 2004, charging
2 Respondent with the above violations plus an additional violation of Penal Code section 242. On
3 or about October 7, 2004, an Amended Complaint was filed charging Respondent with violating
4 Penal Code sections 314 (Indecent Exposure); 243(e)(1) (Battery upon a spouse/co-habitant); 242
5 (Battery); and 236 (False Imprisonment). Following Respondent's plea, he was placed on
6 conditional release probation under the supervision of the court for three years.

7 **SECOND CAUSE FOR DISCIPLINE**

8 **(Unprofessional Conduct)**

9 7. Respondent is subject to disciplinary action under Code section 2878;
10 subdivision (a), in that Respondent committed acts of unprofessional conduct as set forth in
11 paragraph 6, above.

12 **PRAYER**

13 WHEREFORE, Complainant requests that a hearing be held on the matters herein
14 alleged, and that following the hearing, the Board of Vocational Nursing and Psychiatric
15 Technicians issue a decision:

16 1. Revoking or suspending Vocational Nurse License Number VN 181911
17 issued to FRANCISCO MACIEL.

18 2. Ordering FRANCISCO MACIEL to pay the Board of Vocational Nursing
19 and Psychiatric Technicians the reasonable costs of the investigation and enforcement of this
20 case, pursuant to Code section 125.3; and,

21 3. Taking such other and further action as deemed necessary and proper.

22 DATED: October 28, 2005

23 

24 TERESA BELLO-JONES, J.D., M.S.N., R.N.
EXECUTIVE OFFICER

25 Executive Officer
26 Board of Vocational Nursing and Psychiatric Technicians
Department of Consumer Affairs
State of California
Complainant